

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARLON ROBERTS

*

v.

* CIVIL ACTION NO. CCB-13-1865

BUREAU OF PRISONS

*

MEMORANDUM

Petitioner is an inmate confined in the Federal Correctional Institution at Ray Brook, New York. He seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Upon review of the petition (ECF No. 1) and respondent's motion to dismiss for improper venue or, in the alternative, motion to transfer (ECF No. 4), the court concludes that transfer of this petition to the proper federal court located in New York is appropriate.¹

Petitioner alleges that the Federal Bureau of Prisons has improperly calculated his sentence. He alleges that the BOP has not provided him with prior custody credit against his federal sentence for time spent in the custody of Canadian immigration officials prior to the commencement of his sentence. ECF No. 1. Regarding the scope and nature of the instant proceeding, the undersigned notes that subject matter jurisdiction of a § 2241 habeas corpus petition lies in the federal district court where petitioner is incarcerated or in the federal district court where the petitioner's custodian is located. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 488-89 (1973). Petitioner is confined in a federal prison in Ray Brook, New York, and his custodian, or the person who has the day-to-day responsibility for his

¹Petitioner has not submitted with his petition a request to proceed *in forma pauperis*. Matters pertaining to such status shall be reserved and left to the discretion of the United States District Court for the Northern District of New York.

custody, would be the warden at FCI Ray Brook. Therefore, jurisdiction of the instant action lies in New York, not in Maryland. Accordingly, respondent's motion to dismiss will be denied but the motion to transfer will be granted.

A separate Order follows.

September 26, 2013
Date

/s/
Catherine C. Blake
United States District Judge